THE HARVARD LEGAL AID BUREAU. — It has been recognized as a grave defect in a system of technical law that its benefits are often available only to those who can meet the expense of hiring counsel. The legal aid bureaus, now established in all the larger cities, and designed to furnish free legal advice and assistance where it is most needed, are performing an important function in rendering the law of more general serviceableness. In the city of Cambridge this work has been performed faithfully, and with growing success, by the Harvard Legal Aid Bureau, conducted by students at the Law School, and now entering on its fourth year.

During the past year 191 cases were brought before the Bureau, 18 of them going to trial. All of these latter were won in the court of first instance, and two of them, which have been appealed, will be argued by members this year. The number of cases brought to the Bureau during October of this year shows an increase of fifty per cent over the number brought in during the same period last year.

The officers and members for the coming year are as follows: P. V. McNutt, President; F. L. Daily, Vice-President; A. E. Case, Secretary; J. H. Philbin and B. D. Edwards, Directors; J. P. Begley, J. E. Bennett, W. F. Cahill, T. W. Doan, Shelton Hale, W. W. Hodson, F. S. Moulton, D. C. Pitcher, W. F. Rogers, H. A. Scragg, E. B. Shea, E. O. Tabor, R. B. Wigglesworth, from the Third Year Class; and G. B. Barrett, Lawrence Clayton, R. C. Foster, M. M. Manning, A. L. Rabb, G. S. Pitney, Marion Rushton, O. G. Saxon, and E. C. Thayer, from the Second Year Class.

CONDEMNATION BY THE ENGLISH PRIZE COURT OF AMERICAN CARGOES CONSIGNED TO COPENHAGEN. — On September 16, 1915, Sir Samuel Evans handed down a Prize Court decision, which must be regarded, if it is supported in the future, as a momentous step in the development of belligerent rights. Reports of the case are now available through the British legal periodicals. *The Kim*, *The Alfred Nobel*, *The Bjornstern Bjornson*, and *The Fridland*, L. J. 463 (Sept. 25, 1915).[1] The vessels in question must not be confused with the thirty-one vessels which sailed between February 9 and April 17 from this country and are still detained by England under the blockade Order in Council of March 11, 1915. The two groups of vessels involve very different questions, though both are loosely referred to as the "Packers' Cases," from the nature of their cargoes.

The vessels whose cargoes were in large part condemned [2] were all neutral Scandinavian bottoms bound for Copenhagen, a neutral port, carrying goods owned by neutral American shippers. The cargoes consisted of foodstuffs, still nominally recognized by England as conditional contraband, and rubber, which since the outbreak of the war she has

[1] See also LONDON TIMES, Sept. 17, 1915, p. 3, and 59 SOL. J. 752.

[2] The penalty of condemnation is itself unusual. It is customary simply to preempt contraband when it is merely conditional or is a product native to the exporting country. The Sarah and Bernhardus, 1 Marriott, 96. See HALL, INTERNATIONAL LAW, 6 ed., 663; BATY & MORGAN, WAR, ITS CONDUCT AND LEGAL RESULTS, 372.

declared to be absolute contraband.[3] Nearly all the consignments were "to order" instead of being made to named consignees. The court had to determine two questions in order to make both the rubber and the foodstuffs confiscable under the doctrine of continuous voyage. It had to find, first, that the rubber, as absolute contraband, was destined for Germany; and, second, that the foodstuffs as conditional contraband were destined not only for Germany but for the enemy's forces. It is advisable to consider the two questions separately.

To find that the cargoes were ultimately destined for Germany, Sir Samuel Evans seems to have considered that the fact that these consignments were out of all proportion to the annual Danish imports of the same commodities raised a presumption against the claimants which they failed to rebut.[4] Sir Edward Grey, however, has intimated to our government that there was further affirmative evidence introduced against the claimants by the Crown.[5] Under strict prize procedure the admission of such evidence is questionable. The long-accepted practice has been to confine the hearing to the ship's papers and statements of the crew, and only where this evidence was suspicious or unsatisfactory would there be an order for "further proof." Captors were held to such rigid exactness to avoid delay, expense, and uncertainty, and to reduce this irritating interference with neutrals to a minimum by confining seizures to the clearest cases. The rise of the doctrine of continuous voyage only increased the number of exceptional circumstances where "further proof" was necessary.[6] But the procedure of British prize courts has been altogether relaxed by the Prize Court Procedure Act of 1914, so that external evidence may be admitted even at the preliminary hearing, with the result that neutral ships are brought into port and un-

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[3] Rubber was placed on the list of absolute non-contraband by Article 28 (3) of the Declaration of London. BRIT. BLUE BOOK, MISC., No. 4 (1909), p. 80. The full text of the Declaration is perhaps more accessible in the WORLD PEACE FOUNDATION PAMPHLET SERIES, Vol. V, No. 3, Pt. II, which may be obtained at 40 Mt. Vernon Street, Boston. The Declaration was, of course, never ratified by any of the nations. England raised rubber to the conditional contraband list by the Order in Council of Sept. 21, 1914. MANUAL OF EMERGENCY LEGISLATION, 1914, p. 111. And made it absolute contraband by the Proclamation of Dec. 23, 1914. SUPPLEMENT 3 to the same Manual, 302, 304. This last order was after the vessels in question had sailed. England's unrestrained action during this war in adding to the list of absolute contraband scarcely corresponds with Sir Edward Grey's advice to the British delegates to the Naval Conference in 1909 that "a rule preventing any additions whatever at the outbreak or after the commencement of war might well form part of the proposed convention." BRIT. BLUE BOOK, MISC., No. 4 (1909), 24.

[4] The lard in these cargoes was found to be more than thirteen times the quantity which had been imported annually into Denmark for each of the three years before the war. In the Law Journal (Sept. 25, 1915) report of Sir Samuel Evans' opinion, he bases his decision solely on this presumption.

[5] BRIT NOTE of Oct. 11, 1915. See N. Y. TIMES, Oct. 12, 1915, p. 3, col. 5. He speaks of "cablegrams and letters in the possession of the British Government which were ultimately produced in court."

[6] See BATY & MORGAN, WAR, ITS CONDUCT AND LEGAL RESULTS, pp. 368–369. The strictness of the rule allowing further proof by either captor or shipper only in very exceptional cases is declared in Story's well-known notes in 1 Wheat. (U. S.), Appendix, 496, 499, 504, and 2 Wheat. (U. S.), Appendix I, 19, 26. See also Dana's Note in WHEATON, ELEMENTS OF INTERNATIONAL LAW, 8 ed., 480; 3 PHILLIMORE, INTERNATIONAL LAW, 3 ed., §§ 473–474, 478–479. England recognized the same principle in the Naval Prize Act, 27 & 28 VICT., c. 25, §§ 17–21.

justifiably detained while the captors are searching about for further proof.[7] Without such evidence in the principal cases, which the court showed a natural disinclination to rely upon, the presumption arising from Denmark's increased imports was clearly inadequate.[8] It could only go to show that quantities of foodstuffs were being shipped to Denmark with the hope of resale and reshipment; and this has never been deemed sufficient to allow the doctrine of continuous voyage to apply.[9]

The second step which the court took in order to hold the foodstuffs confiscable was still more questionable. It involved the application of two Orders in Council. The first permitted the extension of the doctrine of continuous voyage to conditional contraband.[10] So many excellent articles have been written on this doctrine that it is unnecessary to consider its history in detail.[11] It is sufficient to say that there has never been a case which has applied the doctrine to conditional contraband where there has been no blockade. The American cases of conditional contraband cited by Sir Samuel Evans were all cases where the doctrine was being applied on the basis of blockade and not simply on the basis of contraband.[12] Such an extension of the doctrine is particularly to be deplored when it is so generally conceded, in thoughtful times of peace, that the seizure of conditional contraband under the clearest circumstances involves loss and annoyance to the neutral which are not compensated for by the benefit to the belligerent.[13] But the court, in applying

[7] 4 & 5 GEO. V, c. 13. MANUAL OF EMERGENCY LEGISLATION, 1914, 256, 274. The Naval Prize Act of 1864 was thereby repealed as to the admission of evidence. See TIVERTON, PRIZE LAW, 91. See the BRITISH NOTE of Feb. 10, 1915, replying to the United States' objection on this score. DEPARTMENT OF STATE, DIPLOMATIC CORRESPONDENCE, May 27, 1915, 44, 48. The United States has again objected in paragraphs 8 and 9 of the Note of Oct. 21, 1915, N. Y. TIMES, Nov. 8, 1915, p. 4, col. 3.

[8] See the objections of the United States to this presumption in paragraphs 12 and 14 of the Note of Oct. 21, 1915, N. Y. TIMES, Nov. 8, 1915, p. 4, cols. 3 and 4.

[9] See Sir Edward Grey's "Memorandum setting out the views of His Majesty's Government founded upon the decisions in the British Courts as to the Rules of International Law" governing the points to be discussed at the International Naval Conference of 1909. BRIT. BLUE BOOK, MISC., No. 4 (1909), 8. The doctrine of continuous voyage is there said not to apply where "evidence goes no further than to show that the goods were sent to the neutral port in the hopes of finding a market there for delivery elsewhere."

[10] This was the famous Order in Council of August 20, 1914. MANUAL OF EMERGENCY LEGISLATION, 1914, 143. The Declaration of London, Art. 35, had specifically freed conditional contraband from the application of the doctrine of continuous voyage. BRIT. BLUE BOOK, MISC., No. 4 (1909), 82.

[11] See 24 HARV. L. REV. 167; 9 AMER. JOURN. INT. LAW, 583; 4 *ibid.* 823; 1 *ibid.* 61; 3 L. MAG. & REV. (4th Ser.) 1. The doctrine became firmly established during England's war with France in the late eighteenth century to prevent neutrals trading between France and her colonies by reshipping from their own ports. The William, 5 Rob. 385; The Maria, 5 *ibid.* 365. It was next applied to prevent reshipment by England at Bermuda and Nassau to blockade runners during our Civil War. The Springbok, 5 Wall. (U. S.) 1. In the same war the doctrine became crystallized in its third stage as applicable to *absolute* contraband when there was no blockade. The Peterhoff, 5 Wall. (U. S.) 28. In this last aspect the doctrine has been more recently recognized by Lord Salisbury in the case of The Bundesrath during the Boer War, BRIT. BLUE BOOK, AFRICA, No. 1 (1900); and by the Italian prize case of The Doelwyck, 24 JOURNAL DU DROIT INTERNATIONAL PRIVÉ (1897) 268.

[12] See CLAPP, ECONOMIC ASPECTS OF THE WAR, 177.

[13] It so appeared to England when she was instructing her representatives before the Naval Conference in 1909. "Any proposal tending in the direction of freeing neu-

the doctrine of continuous voyage to conditional contraband, did not even require clear evidence that it was destined for the enemy's forces. To establish this fact reliance was placed upon a second Order in Council which declared that such a destination would be presumed where the goods were shipped "to order."[14] Sir Samuel Evans was doubtless bound to follow this Order in Council.[15] But the net result of doing so is a close approach to ignoring the distinction between food destined for the civil population and for the enemy's forces.[16] This result seems to be appreciated by England, as would appear from the constant references to Germany's high state of organization and government control.[17] The fact, however, that every shipment to civilians releases, *pro tanto*, domestic foodstuffs to the military, and that governments make necessary requisitions anyway, indicates that the distinction does not rest upon a mere question of relative belligerent advantage, but is another evidence of the desire of nations to confine narrowly the injurious effects of war upon strangers to the quarrel.

In short, the decision of Sir Samuel Evans in its several steps appears to be nothing but an instance of the spirit of protective retaliation which

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tral commerce and shipping from the interference which the suppression by belligerents of the trade in contraband involves should receive your sympathetic consideration, and, if not otherwise open to objection, your active support." BRIT. BLUE BOOK, MISC., No. 4 (1909), 23. See also the admirable argument to this end by Earl Loreburn made as recently as 1913. LOREBURN, CAPTURE AT SEA, chap. V.

[14] "Declaration of London Order in Council No. 2" of Oct. 29, 1914, cl. 1 (iii). MANUAL OF EMERGENCY LEGISLATION, 1914, SUPPLEMENT I, 17, 18. The United States objected to the creation of this presumption in her Note of Dec. 26, 1914. DEPARTMENT OF STATE, DIPLOMATIC CORRESPONDENCE, May 27, 1915, 40. In the Note of Oct. 21, 1915, the right to object to this order is specifically reserved and its use merely criticized. N. Y. TIMES, Nov. 8, p. 4, col. 3, paragraph 10.

[15] The Fox (1811), Edw. Adm. 311. See also the elaborate *dictum* of Sir Samuel Evans last June on this precise point. The Zamora, Brit. & Colonial Prize Cases, Pt. 3, 309, 328–331. Both Lord Stowell and Sir Samuel Evans avoided a frank declaration that a municipal order must be followed though contrary to international law; they asserted, however, that it is inconceivable that Parliament should promulgate such an unlawful order. The result is obviously the same. It is tolerably clear that the Order then followed in The Fox was contrary to international law. See 3 PHILLIMORE, INTERNATIONAL LAW, 3 ed., § 436. The United States has protested twice against this attitude of English Prize Courts towards national Orders in Council. DEPARTMENT OF STATE, DIPLOMATIC CORRESPONDENCE, Oct. 21, 1915, 177; Note of Oct. 21, 1915, paragraphs 29, 30; N. Y. TIMES, Nov. 8, 1915, p. 4, col. 6.

[16] This distinction has always been one of the most sacred principles of international law. There have been only two real attempts to violate it — by England in 1793 on the theory that she was starving France out, and by France in 1885 on the ground that rice occupied such a unique position in China. See HALL, INTERNATIONAL LAW, 6 ed., 658–659. England has twice in the last twenty years officially asserted the distinction — through Lord Salisbury in the Boer War and through Lord Lansdowne in the Russo-Japanese War. See CLAPP, ECONOMIC ASPECTS OF THE WAR, 41, 42.

[17] "The reason for drawing a distinction between foodstuffs intended for the civil population and those for the armed forces or enemy government disappears when the distinction between the civil population and the armed forces itself disappears." BRIT. NOTE of Feb. 10, 1915. DEPARTMENT OF STATE, DIPLOMATIC CORRESPONDENCE, May 27, 1915, 51.

"Regard must also be had to the state of things in Germany during this war in relation to the military forces and to the civil population, and to the method described in evidence, which was adopted by the government in order to procure supplies for the forces." Sir Samuel Evans in The Kim and Other Vessels, L. J. (Sept. 25, 1915) 464.

is reflected in several of England's notes to this government.[18] Sir Edward Grey has suggested that it is open to this country, if the decision is appealed and affirmed by the Judicial Committee of the Privy Council, to lay its claim before an international court of arbitration at the end of the war.[19] But the United States has wisely adopted the course of objecting immediately through diplomatic channels, in an effort to check in some degree this progressive enlargement of the field of belligerent interference with neutral trade.

JUDICIAL ACCEPTANCE OF WORKMEN'S COMPENSATION. — An interesting chapter in the history of workmen's compensation legislation in this country, and of its progress through the judicial mill, is brought to a happy conclusion by a late decision of the New York Court of Appeals holding the new compensation act not in violation of the federal Constitution. *Jensen* v. *Southern Pacific Co.*, 215 N. Y. 514, 109 N. E. 600. A recent case in California on a similar statute comes to the same conclusion. *Western Indemnity Co.* v. *Pillsbury*, 151 Pac. 398. This result is not surprising in view of what has come to be a settled public sentiment in favor of such legislation.

Consideration of the subject in the United States was not begun until after compensation laws had been in force for years in other countries and had proven generally beneficial. Hence the development of public opinion on the subject here was extremely rapid, and legislation was swift to follow. Beginning in 1909,[1] with legislation in Montana and the appointment of investigating commissions in New York, Minnesota, and Wisconsin, a majority of our states have come to enact workmen's compensation or industrial insurance laws, the variety of whose provisions must be pleasing to those who see in the number of our states a fortunate broadness of field for legislative experiment.

Not a small part of this experimenting has resulted from the attempt to avoid constitutional objections; and it has met with varying success. The first act to be questioned in a court of last resort was the statute of New York. That statute had been framed with some care to meet constitutional objections; it was believed that the fact that it applied only to certain industries, declared with reason to be extra-hazardous, would see it safely through. This belief proved to be unfounded, for the act was held to be a violation of the Fourteenth Amendment and of a similar provision of the constitution of New York.[2] The decision was greeted with

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[18] See, for instance, the Note of Oct. 11, 1915, N. Y. TIMES, Oct. 12, 1915, p. 3, col. 5.

[19] See BRIT. NOTE of July 31, 1915, clauses 6 and 7. DEPARTMENT OF STATE, DIPLOMATIC CORRESPONDENCE, Oct. 21, 1915, 182. He cites the Jay Treaty and the Treaty of Washington as instances where this mode of procedure was recognized by the two countries. For these treaties see TREATIES AND CONVENTIONS BETWEEN UNITED STATES AND OTHER POWERS (off.), Great Britain, 1794, Art. VII, p. 323; Great Britain, 1871, p. 413.

[1] Leaving out of account the short-lived Maryland act of 1902 and the federal act of 1908, which applied only to employees of the government.

[2] Ives *v.* South Buffalo Ry. Co., 201 N. Y. 271, 94 N. E. 431.